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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,053	02/13/2002	Robert C. Stevens	RST 2 0011-3	8092

7590 06/04/2004

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EXAMINER

SIRMONS, KEVIN C

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,053

Applicant(s)

STEVENS, ROBERT C. *ON*

Examiner

Kevin C. Sirmons

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 12-23 and 29-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/13/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

Claims 12-23 and 29-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Election was made **without** traverse on 3/24/04.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: a first end, a second end; a first flexible outer coating; a second flexible outer coating; a first portion; a first transition area and a second portion. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. Note: the same objections apply to the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6-11, 24-25, 17 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens U.S. Pat. No. 5,972,143.

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Stevens discloses a reinforced catheter comprising: a elongate flexible tubular member defining a lumen of the catheter, the tubular member having a first end defining a proximal end of the catheter and a second end defining a distal end of the catheter (40); a continuous coil reinforcement member carried on the elongate flexible tubular member and extending between the proximal end of the catheter and the distal end of the catheter (42); a first flexible outer coating covering the coil reinforcement member and the tubular member substantially entirely between the proximal end of the catheter and the distal end of the catheter (44); a second flexible outer coating covering a first portion of the first outer coating between the first transition area of the catheter and said proximal end of the catheter, a second portion of the first outer coating being uncovered by said second outer coating (product-by-process) and defining a flexible distal tip of said catheter, said first coating being softer than said second coating (col. 7); as to claim 2, (col. 7 and 8); as to claim 6, (fig. 4); as to claims 7, 8, (42); as to claims 9-11, (figs. 4a-4f); as to claims 24-25, 27 and 28 (see above rejections).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens.

Stevens discloses a reinforced catheter substantially as claimed except for the various harnesses of the first and second coatings.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the hardness of the same or various materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended uses as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Furthermore, applicant has not disclosed that the aforementioned limitations provides an advantage, is used for a particular purpose and solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the device as taught by Stevens.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens in view of Weber U.S. Pat. No. 5,147,315.

Stevens discloses a reinforced catheter substantially as claimed except for a marker band disposed adjacent the distal end of the catheter on the outer coating. Weber discloses a marker band disposed adjacent the distal end of the catheter on the outer coating (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Stevens with the marker band as taught by Weber for locating the distal portion of the catheter.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens in view of Weber U.S. Pat. No. 5,147,315 and further in view of Adams et al U.S. Pat. No. 5,843,051.

Stevens in view of Weber disclose a reinforced catheter substantially as claimed except for wherein the marker band is formed of a one of gold material and platinum material.

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Adams discloses a marker band is formed of a one of gold material and platinum material (41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Stevens in view of Weber with the platinum band as taught by Adams for locating the distal portion of the catheter.

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703) 306-5410. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

A handwritten signature in cursive script, reading "Kevin C. Sirmons".

Kevin C. Sirmons

Patent Examiner

5/31/04